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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Philippe ROBERT — Group Art Unit: 2815

Application No.: 10/582,521 — Examiner: C. CHU

Filed: June 9, 2006 — Docket No.: 128303

For: MICROCOMPONENT COMPRISING A HERMETICALLY-SEALED CAVITY AND A PLUG, AND METHOD OF PRODUCING ONE SUCH MICROCOMPONENT

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the April 3, 2008, Restriction Requirement, Applicant provisionally elects Group 1, claims 16-27, with traverse.

National phase applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to normal U.S. restriction practice. *See* MPEP §1893.03(d). Applicant respectfully submits that the present Restriction Requirement has improperly applied U.S. restriction practice, when this application is instead subject to PCT Unity of Invention practice under 37 C.F.R §1.475. Although the Office Action cited PCT National phase rules and unity of invention standards, the rationale for restriction clearly applies only normal U.S. restriction practice.

Under 37 C.F.R §1.475, Unity of Invention is present, for example, if the claims are drawn to "a product and a process specially adapted for the manufacture of said product." 37 C.F.R §1.475(b)(1). As explained in MPEP §1893.03(d), "a process is 'specially adapted' for

the manufacture of a product if the claimed process inherently produces the claimed product." Furthermore, "the expression 'specially adapted' does *not* imply that the product could not also be manufactured by a different process" (emphasis added). MPEP §1893.03(d).

Accordingly, the Restriction Requirement's statement that "the product as claimed can be made by a materially different process" is entirely irrelevant to Unity of Invention under 37 C.F.R §1.475. The present method claims 28-32 of Group II ultimately depend from, and inherently produce the claimed product of, claims of Group I. Therefore, whether additional processes may *also* produce the claimed product is irrelevant to Unity of Invention because both Groups I and II share the same special technical features.

Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a restriction requirement based on a lack of unity of invention is entirely improper.

Furthermore, where product and process claims are presented in the same application, and the product claims are elected, rejoinder will be permitted when a product claim is found allowable and the withdrawn process claim depends from or otherwise includes all the limitations of an allowed product claim. In the present application, the method claims of Group II include all of the limitations of the product of Group I. In particular, all of the limitations of the independent product claim 1 of Group I are incorporated into the method of Group II.

Since the method claims of Group II include the limitations of the product claims of Group I, the method claims must be rejoined with the product claims once the product claims are allowed. Thus, to streamline prosecution and avoid delay, the Restriction Requirement should be withdrawn to permit concurrent examination of all of the pending claims. Applicants respectfully request reconsideration and withdrawal of the Restriction Requirement.

Thus, for at least the reasons discussed above, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,

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WPB:STD/std

Date: April 17, 2008

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